

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

BRYAN COLBY CHAPPELL,)	
)	
Plaintiff,)	
)	
v.)	No. 2:20-cv-00224-JRS-MJD
)	
ELIZABETH TRUEBLOOD Dr., et al.,)	
)	
Defendants.)	

Order Granting in Part Motion to Add Claims and Motion for Copies

Mr. Chappell has brought this action pursuant to the theory recognized in *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971). In its December 28, 2020, screening order, the Court allowed First and Eighth Amendment claims to proceed against over twenty defendants based on Mr. Chappell's allegations that he has been denied adequate healthcare and that Bureau of Prisons employees have retaliated against him for complaining about such.

I. Motion to Add Claims

A. Factual Background

Mr. Chappell now seeks to add additional claims against three new defendants. Dkt. 42. Mr. Chappell was transferred from FCI Terre Haute to another facility on January 6, 2021. He alleges that the morning of his transfer, he was taken to the strip search area to be prepped when SIS Lt. Sherman entered and screamed at another correctional officer to take Mr. Chappell's medically-prescribed shoes "and put a black box^[1] on him" because he was a writ writer. *Id.* at 2. When Mr. Chappell complained that he needed the shoes, Lt. Sherman said he did not care, and he directed Correctional Officer Vest to tighten Mr. Chappell's restraints.

¹ It is not clear what the "black box" is.

Mr. Chappell's restraints were so tight that the U.S. Air Marshals escorting him had to assist him into the plane. Once on board, one of the marshals commented that the only reason the restraints were placed on Mr. Chappell in that manner was to hurt him. The marshal removed or loosened the restraints because the chains cut into Mr. Chappell's waist, wrists, and legs, causing pain and swelling.

Mr. Chappell further alleges that Nurse Mize refused to give Mr. Chappell his blood thinner medication for three days before his transfer, which caused him psychological distress because he feared he would sustain another stroke. Mr. Chappell wrote to Dr. Luken and Dr. Trueblood requesting the medicine to no avail.

B. Discussion

Federal Rule of Civil Procedure 15 provides that, as a general rule, a court "should freely give leave [to amend] when justice so requires." *Gonzalez-Koenke v. West*, 791 F.3d 801, 807 (7th Cir. 2015) (quoting Fed. R. Civ. P. 15(a)(2)). A plaintiff may join defendants in a single lawsuit only if the grounds for relief "aris[e] out of the same transaction, occurrence, or series of transactions or occurrences" and "[some] question of law or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2). Because Mr. Chappell alleges that Lt. Sherman ordered Mr. Chappell to be restrained in an excessive manner out of retaliation for being a "writ writer," Mr. Chappell has sufficiently alleged a connection between this incident and the pattern of retaliation described in his amended complaint. *See Terry v. Spencer*, 888 F.3d 890, 894 (7th Cir. 2018) (noting that two set of claims about lost mail and access to courts "are against different defendants, but they belong in the same suit because they arise out of the same set of connected 'transactions.' FED R. CIV. P. 20(a)(2)(A).").

Accordingly, Mr. Chappell's motion to add additional claims, dkt. [42], is **granted** to the extent that Mr. Chappell's excessive force claims **shall proceed** against Lt. Sherman and Officer Vest, and a First Amendment retaliation claim **shall proceed** against Lt. Sherman.

Mr. Chappell's factual allegations against Nurse Mize do not arise to an Eighth Amendment violation. In order for an inmate to state a constitutional claim for medical mistreatment or the denial of medical care, the prisoner must allege "acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs." *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Deliberate indifference exists only when an official "knows of and disregards an excessive risk to an inmate's health; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (construing *Estelle*). Nurse Mize's limited involvement in failing to dispense medication for three days does not demonstrate that she disregarded an excessive risk to Mr. Chappell's health. This is especially so because Mr. Chappell does not allege that he suffered any physical harm from being deprived of his blood thinner medication for this short period. *Lord v. Beahm*, 952 F.3d 902, 905 (7th Cir. 2020) (citing in part *Roe v. Elyea*, 631 F.3d 843, 863 (7th Cir. 2011) (noting because a civil rights action "created a species of tort liability . . . [a] successful . . . plaintiff therefore must establish not only that a state actor violated his constitutional rights, but also that the violation *caused* the plaintiff injury or damages." (internal citations omitted))).

For the foregoing reasons, Mr. Chappell's motion to add defendants and claims, dkt. [42], is **granted** to the extent that a First Amendment retaliation claim shall proceed against Lt. Sherman and Eighth Amendment excessive force claims shall proceed against Lt. Sherman and Correctional Officer Vest.

The **clerk is directed** to add Lt. Sherman and Correctional Officer Vest as defendants to this action. Normally, to amend a complaint, a plaintiff must file a motion to amend complaint and include a proposed amended complaint that contains all claims against all defendants. However, as discussed below, Mr. Chappell currently does not have copies of any of his legal work. Accordingly, the **clerk is directed** to docket Mr. Chappell's amended complaint, dkt. [31], and his motion to add claims, dkt. [42], along with his previously filed exhibits, dkt. [31-1], as the Second Amended Complaint in this action.

The clerk is designated pursuant to Fed. R. Civ. P. 4(c) to issue process to Lt. Sherman and Correctional Officer Vest. The Marshal for this District or his Deputy shall serve the summons, together with a copy of the Second Amended Complaint and a copy of this Order, at the expense of the United States.

II. Motion for Copies

Mr. Chappell was recently transferred to FCI Butner. He alleges that on the day of his transfer, Lt. Sherman ordered Mr. Chappell's property to be thrown away, which Mr. Chappell assumes includes his legal work. Dkt. 44 at 2. Mr. Chappell says none of his property has arrived to FCI Butner, but inmates must wait thirty days before requesting their property. *Id.* at 3–4. He requests all filings from his amended complaint and on so that he can prepare requests for counsel.

Mr. Chappell's motion for copies, dkt. [44], is **granted** to the extent that the **clerk is directed** to send Mr. Chappell a copy of the docket and the Court's screening order, dkt. [34], with his copy of this Order. Given the length of Mr. Chappell's first amended complaint and the quantity of filings in this case, it is premature to expend the Court's resources to provide Mr. Chappell with copies of all filings given that he may still receive them at FCI Butner. If Mr. Chappell is able to


confirm that his legal work was not transferred to FCI Butner, he may renew his request and ask for specific filings.

III. Conclusion

For the foregoing reasons, Mr. Chappell's motion to add defendants and claims, dkt. [42], is **granted** as set out in Section I, and his motion for copies, dkt. [44], is **granted** to the extent that the **clerk is directed** to send Mr. Chappell a copy of the docket and the Court's screening order, dkt. [34], with his copy of this Order.

IT IS SO ORDERED.

Date: 2/3/2021


JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

Distribution:

BRYAN COLBY CHAPPELL
25865-009
BUTNER - MEDIUM I FCI
BUTNER MEDIUM I FEDERAL CORRECTIONAL INSTITUTION
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